

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BLUE HEN HOTEL, LLC, :
Plaintiff, :
v. : C.A. No. 05-221-JJF
CHARLES P. ARENA, :
Defendant. :
:

DEFENDANT'S MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6)

The defendant, Charles P. Arena, hereby moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to partially dismiss Count I of the Complaint and to dismiss Count II of the Complaint in its entirety. The reasons for defendant's motion are set forth in the Opening Brief being filed herewith.

BIFFERATO GENTILOTTI BIDEN & BALICK



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September 2, 2005

CERTIFICATE OF SERVICE

I, Adam Balick hereby certify that on the 2nd day of September, 2005 two copies of the attached Motion to Dismiss were served electronically upon the following:

Frank Noyes II, Esquire
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ADAM BALICK